

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILIPPO TOSCANO,

Plaintiff,

v.

FLEET BOSTON FINANCIAL,

Defendant.

Civil Action No. 04-12474-DPW

JOINT STATUS REPORT

In accordance with the Court's Order dated August 26, 2008, the parties respectfully submit the following status report:

1. **Current Status of the Case:**

On July 15, 2008, the Court appointed pro bono counsel Edward N. Perry, as counsel for settlement purposes only. All other proceedings have been stayed and parties have engaged in settlement discussions.

2. **Discovery Proceedings:**

The parties have not engaged in any formal discovery, but have exchanged documents to facilitate settlement discussions. If the matter is not resolved, the parties intend to proceed with discovery as follows:

- a. Plaintiff anticipates taking the depositions of Lee Anderson, Mary Barnes, Virginia Concannon, Herbert Mason, Renee Mayers, Susan Membrino, Karen Osowski, Michael Thorne and Brenda Wornum-Moore. Plaintiff also anticipates filing interrogatories and requests for production of documents.

- b. Defendant anticipates taking the Plaintiff's deposition and those of his treating physicians. In addition, Defendant reserves the right to take the deposition of any witnesses identified by the Plaintiff in his initial disclosures. Defendant will also exchange written discovery.

3. **Settlement Discussions:**

Plaintiff's settlement counsel spent a considerable amount of time reviewing the records of the MCAD and Federal District Court, as well as meeting with Plaintiff. After a month of work, on August 15, 2008, Plaintiff's settlement counsel sent Defendant's counsel a settlement proposal. On August 20, Plaintiff's settlement counsel met with Defendant's counsel to discuss the settlement proposal that had been authorized by the Plaintiff. On August 21, Plaintiff's settlement counsel forwarded documents requested during the meeting to Defendant's counsel. As of September 5, Plaintiff's counsel has received no response from the Defendant. Defendant is evaluating the settlement demand and will respond accordingly.

4. **Pending or Contemplated Motions:**

On May 8, 2008, the Defendant filed a partial motion to dismiss the age and disability discrimination counts for failure to state a claim and to exhaust administrative remedies. On May 7, 2008, the Plaintiff filed a Statement in Response to Show Cause Order - Motion for Reconsideration for Reinstatement of Long Term Disability. Both motions are still pending before the Court. Should the matter not resolve, the parties reserve their right to evaluate the case to determine if further motions are required.

5. **Proposed Dates for Pretrial Conference:**

Plaintiff: April 2009

Defendant: July 2009

6. **Proposed Trial Dates**

Plaintiff: June 2009

Defendant: September 2009

FILIPPO TOSCANO,

By his attorney,

BANK OF AMERICA, N.A.,

By its attorneys,

/s/ Edward N. Perry

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Dated: September 9, 2008